



April 4, 2008

Sonar Legal Update & Regional Protective Measures

Update on SOCAL sonar legal proceedings (applies to JTFEX and COMPUTEX)

On March 31, the Navy asked the Supreme Court to review a California federal district court injunction that restricts the Navy's ability to train with sonar on the Southern California (SOCAL) Range Complex during composite unit trainings exercises (COMPTUEX) and joint task force exercises (JTFEX) and the Ninth Circuit Court of Appeals' affirmation of that injunction.

- The petition argues that the Ninth Circuit's February 29 ruling conflicts with the judgment of Congress, the President and the nation's top naval officers, as well as previous decisions of the Supreme Court.
- This is an essential national security issue, and we believe that the Supreme Court's review is warranted.

Highlights of Court-imposed SOCAL training restrictions (applies to JTFEX and COMPTUEX)

- Navy will generally not operate MFA sonar within 12 nm of the California coast or in the Catalina Basin.
- MFA sonar must be shut down if a marine mammal (MM) is detected within 2000m unless the exercise is at a critical point and/or a Significant Surface Duct (SSD) is detected. During a critical point, MFA power will be reduced 75% if a MM is within 1000m of the source, reduced by 90% if a MM is within 500m, and shut down if a MM is within 200m. If a SSD is detected, MFA power will be reduced 75% if a MM is within 2000m of the source, reduced by 90% if a MM is within 1000m, and shut down if a MM is within 500m.

Hawaii sonar legal proceedings (applies to USWEX)

On February 29, the U.S. District Court in Hawaii issued an injunction that limits the Navy's ability to train with sonar on the Hawaii Range Complex during undersea warfare exercises (USWEX).

Highlights of Court-imposed Hawaii training restrictions (applies to USWEX)

- Navy ship MFA sonar power must be reduced by 75% if a MM is detected within 1500m of the source, 90% if a MM is within 750m, and shut down if within 500m unless the MMs are bow-riding dolphins or porpoises.
- MFA sonar power must be reduced by at least 3 dB if a combination of two of the following factors exists: (1) rapid bathymetry change, (2) multiple vessels using MFA sonar in close proximity for long periods, (3) limited marine mammal egress routes, or (4) presence of a significant surface duct. MFA sonar power must be reduced by 6 dB if three of these factors are in place, and shut down if four are in place.
- Navy must gradually ramp up sonar power before each exercise and have at least three dedicated lookouts.

Update on Hawaii sonar legal proceedings (applies to USWEX)

On March 19, the District Court modified its preliminary injunction, including an exception for bow-riding dolphins/porpoises, clarifying that military personnel are the MM observers, and allowing for reliance on actual SSD measurements rather than historical data for applying the significant surface ducting measure.

Key Messages

- When using MFA sonar during major training exercises or within established DoD ranges or operating areas, Navy adheres to 29 MM protective measures, which were issued under a National Defense Exemption (Jan 07) and approved by the National Marine Fisheries Service (NMFS).
- Sonar training is critical to the combat readiness and safety of our Sailors and Marines who must operate at sea.

Facts & Figures

The 2007 National Defense Exemption requires:

- Extensive use of lookouts, sensors and other platforms for detecting MMs.
- MFA sonar power reductions and possible shutdown dependent on detected MM range.
- Coordination with NMFS regarding any unusual MM behavior within 24 hours after MFA sonar use.
- Reporting on MM activity during an exercise to NMFS within 120 days.